

REMARKS

The present application includes pending claims 1-28, all of which have been rejected. Reconsideration of the claims is requested.

Claims 1-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,417,446 ("Whitehead"). The Applicants respectfully traverse this rejection, at least for the reasons set forth below, and previously during prosecution.

In order for a *prima facie* case of obviousness to be established, Section 2142 of the MPEP states the following:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest *all* the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art.

Additionally, if a *prima facie* case of obviousness is not established, the Applicants are under no obligation to submit evidence of nonobviousness. See MPEP Section 2142 ("The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."). The Applicants respectfully submit that there is no suggestion or motivation to modify Whitehead in the manner suggested in the Office Action, and, as such, a *prima facie*

case of obviousness has not been established with respect to the rejection of the pending claims of the present application in view of Whitehead.

The Office Action acknowledges that Whitehead fails to disclose "two additional separately simplex power receptacles having a respective housing." Further, the Office Action contends the following:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Whitehead with any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Not only does Whitehead fail to disclose "additional" simplex power receptacles, Whitehead does not even teach or suggest any simplex power receptacles.

The Applicants respectfully submit that Whitehead does not teach, nor suggest, "simplex power receptacles," as recited in the claims of the present application. Instead, Whitehead only discloses duplex power receptacle housings. For example, Whitehead discloses the following:

As shown, the receptacles are preferably formed as separate wedge-shaped units, **each including two electrical outlets**. The electrical outlets, i.e., outlets 114, are configured for receipt of conventional 110 voltage electrical plugs. Of course, the outlets may be configured for receipt of various other electrical plugs. Alternatively, the receptacle may be formed as a single "bow-tie" shaped four-

plug unit (receptacle 98'). As will be described further
hereinbelow....

Whitehead at column 6, line 63 to column 7, line 6 (emphasis added). Figure 5 clearly shows two duplex power receptacles 98 and 99, each having two electrical outlets apiece. As such, simplex power receptacles, which include only one power receptacle apiece, are not disclosed.

The duplex receptacle 98 is further shown in Figure 8 of Whitehead. In that Figure, Whitehead clearly shows that the receptacle is a duplex receptacle including two outlets 114 in a single housing.

Whitehead also discloses the following:

[R]eferring to FIG. 6, the poke-through device, i.e., device 10' may be modified to provide only a single receptacle, e.g., receptacle 99, and a total of 4 data jacks.

Id. at column 7, line 67 to column 8, line 3. Receptacle 99, however, is a duplex receptacle. Figure 5 clearly shows the receptacle 99 as a duplex receptacle including two electrical outlets.

In general, Whitehead discloses duplex receptacles, and even a bow-tie quad receptacle (See Figure 8A). Whitehead, however, does not teach, nor suggest, a single simplex power receptacle. Thus, Whitehead, by definition, cannot teach multiple, such as four, simplex power receptacles. The pending claims of the present application all include a limitation regarding simplex power receptacles. The Applicants respectfully submit that the claims of the present application should be in condition for allowance at least because Whitehead does not teach, nor suggest, "simplex receptacles."

The claims of the present application do not “merely duplicate the essential working parts” of the embodiments shown in Whitehead, as suggested in the Office Action. As discussed above, Whitehead only discloses duplex or quad receptacles, but not simplex receptacles. Duplicating the duplex or quad receptacles shown in Whitehead still would not produce the inventions recited in the claims of the present application, because there still would not be any simplex receptacles. Again, the Applicants respectfully submit that Whitehead does not teach, nor suggest, “simplex receptacles,” and therefore cannot render the claims of the present application unpatentable.

As stated above, a prima facie case of obviousness requires some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Further, as stated in Section 2143 of the MPEP,

The teaching or suggestion to make the claimed combination and the reasonable expectation of success ***must both be found in the prior art, not in the applicant's disclosure.***

The boilerplate language contained at column 9, lines 7-13 of Whitehead does not teach or suggest that the duplex receptacles 98, 99 of Whitehead could or should be formed as four simplex receptacles, each having a respective housing. Instead, it appears that impermissible hindsight is being used to recreate the claimed inventions.

The tendency to resort to “hindsight” based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must

be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

See MPEP at Section 2142.

While the Applicants understand that the use of hindsight may be difficult to avoid, it must, nevertheless, actually be avoided.

It is difficult but necessary that the decisionmaker forget what he or she has been taught... about the claimed invention and cast the mind back to the time the invention was made... to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art.

See MPEP 2141.01 (III) at page 2100-117 (citation omitted). The Applicants respectfully submit that there is no teaching, nor suggestion, in Whitehead to provide four separately formed simplex power receptacles, each simplex power receptacle having a separate housing. Thus, the Applicants respectfully submit that the Examiner is using impermissible hindsight to modify Whitehead and, as such, a *prima facie* case of obviousness has not been established with respect to the rejection of the pending claims of the present application. In view of the above, claim 1, and the claims that depend therefrom, are patentable over Whitehead.

Similarly, independent claim 6 is patentable over Whitehead because Whitehead fails to disclose or suggest a poke-through fitting comprising "four separately formed simplex power receptacles, each simplex power receptacle having a respective housing." Nor, as noted above would it be obvious to form the duplex receptacles 98,

99 of Whitehead as four separate simplex receptacles. Further, Whitehead fails to disclose or suggest a poke-through fitting having both "four separately formed simplex power receptacles" and "four communication/data jacks," as recited in claim 6. Rather, Whitehead discloses three alternative configurations. See, e.g., Whitehead, Abstract. The first Whitehead configuration, which can best be seen in Figures 1 and 5, includes two duplex power receptacles 98, 99 (presenting four total power outlets) and two data jacks 130. A first alternative configuration (See Fig. 6) provides a single duplex power receptacle 90 and four data jacks 130. In this second embodiment, the duplex power receptacle 98 of the first embodiment is replaced by two additional data jacks. As is explained in Whitehead:

Device 10' utilizes platform 116 of device 10, but utilizes a mounting plate 128' rather than mounting plate 128. As shown, mounting plate 128' includes a wing 162 which allows the mounting of two additional category 5 data jacks in the region formerly occupied by receptacle 98 (see also FIG. 9).

Whitehead, at col. 8, lines 6-11. Whitehead also describes a third embodiment having six data jacks and no power receptacles. (See Figure 10 and col. 8, lines 31-38). However, Whitehead does not disclose or suggest a poke-through fitting that includes both four simplex power receptacles and four data jacks. Nor would it be obvious to so modify Whitehead given the space constraints imposed on poke through fittings. Specifically, as noted in Whitehead, building codes typically restrict such fittings to a maximum diameter of four inches.

Inasmuch as floor structure 14 is typically a structural, load bearing member of the building, the maximum size of the interfloor is limited by building code requirements. In particular, interfloor holes, typically range in diameter from two to four inches. In one preferred embodiment, hole 12 is formed with a four inch diameter.

Whitehead at col. 4, line 65 to col. 5, line 3. Hence, claim 6 and its dependent claims are believed to be patentable over Whitehead.

Claims 11 and 13 are similarly patentable over Whitehead for the reasons given above in connection with independent claims 1 and 6. Namely, Whitehead does not disclose or suggest the a poke-through wiring fitting having "four separately formed simplex power receptacles, each power receptacle having a respective housing mounted within the fitting." Nor, as discussed above, would it be obvious to construct the duplex receptacles 98, 99 of Whitehead as four simplex power receptacles. Further, as discussed in connection with claim 6, Whitehead does not contemplate, disclose or suggest a poke-through fitting having both four simplex power receptacles and four communication/data jacks mounted within the fitting. Hence, claims 11 and 13 are patentable over Whitehead.

Claim 14 is patentable over Whitehead for the reasons given above in connection with claim 1. Namely, Whitehead does not disclose or suggest a poke-through wiring fitting having "four simplex power receptacles, each power receptacle having a respective housing." Nor, as discussed above, would it be obvious to

construct the duplex receptacles 98, 99 of Whitehead as simplex power receptacles.

Hence, claim 14 is patentable over Whitehead.

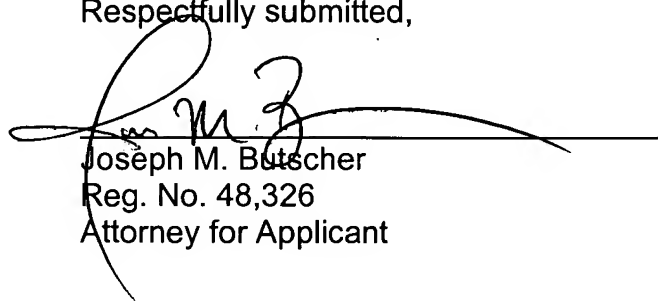
Likewise, claim 16 is patentable over Whitehead because Whitehead does not disclose or suggest a poke-through wiring fitting having four simplex power receptacles, each of which has a respective housing. Nor, as discussed above, would it be obvious to construct the duplex receptacles 98, 99 of Whitehead as four simplex power receptacles. Further, as discussed in connection with claim 6, Whitehead does not contemplate, disclose or suggest a poke-through fitting having both four simplex power receptacles and four communication/data jacks mounted within the fitting. Hence, claims 16 is patentable over Whitehead.

Method claims 21-22 and 24-28 are also patentable over Whitehead for the reasons given above. Specifically, Whitehead does not disclose or suggest mounting four simplex power receptacles within the insert (or fitting), wherein each simplex power receptacle has a respective housing. Nor, as discussed above, would it be obvious to construct the duplex receptacles 98, 99 of Whitehead as four simplex power receptacles. Hence claims 21-22 and 24-28 are patentable over Whitehead.

In view of the above, claims 1 to 28 are believed to be in condition for allowance. The Examiner is invited to telephone the Applicants' undersigned attorney at (312) 775-8000 if any unresolved matters remain. Please charge any fees due in connection with this submission to Deposit Account No. 13-0017.

Respectfully submitted,

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